

REMARKS

This amendment is responsive to the Office Action of November 13, 2007. Reconsideration and allowance of claims 1, 2, 4, 5, 10, 13, and 15-26 are requested.

The Office Action

Claims 1-3, 9, 11, and 12 stand rejected under 35 U.S.C. § 102 as being anticipated by Kater (US 3,993,049) in view of Sem-Jacobsen (US 3,954,100).

Claims 4 and 8 stand rejected under 35 U.S.C. § 102 as being anticipated by Sem-Jacobsen.

Claims 4-7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kater in view of Bogusiewicz (US 5,427,096).

Claims 10 and 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sem-Jacobsen in view of Reho (US 2004/0138546).

Omnibus claim 14 stands rejected under 35 U.S.C. § 112, second paragraph.

The Examiner objected to claims 11-13 as being substantially duplicative of claim 1.

Oath/Declaration

The applicants request waiver of the requirement for a new oath/declaration.

First, the applicants used the U.S. Department of Commerce – Patent and Trademark Office form for Combined Declaration for Patent Application and Power of Attorney.

Second, the inventors are not US Nationals and are not resident in the US.

37 C.F.R. § 1.97 Information Disclosure Statement

The applicants enclose a PTO-1449 officially listing the references cited in the PCT Search Report, which Search Report was previously provided to the U.S. Patent and Trademark Office and the Examiner by the International Bureau. An early indication that these references have been considered is requested.

The Prior Art

Kater is directed to a single use EKG electrode. A lower covering 20 is peeled off and an adhesive, conductive gel 26 adheres the electrode to the patient's skin. The gel functions as the skin-to-electrode electrical resistivity reducing agent and provides

an interface between the skirt 24 of the electrode and the metal or metalized screen 36. An EKG lead is snapped to the stud 22.

Bogusiewicz illustrates a similar EKG electrode in which a snap fastener 305 and eyelet 307 are attached to a circular disk whose lower surface is coated with a layer 350 of adhesive electrically conductive gel 350 which functions as an electrolyte between the clip and the patient's skin. An EKG lead is again snapped to the clip.

Sem-Jacobsen is directed to a flexible sensor pad that includes a non-conductive textile 18 on which a pair of metal cloth pads 20, 22 are mounted. Prior to use, the pads are covered with a removable protective sheet 24. The Sem-Jacobsen device is porous and breathable and includes no moisture impermeable electrode portion.

The Claims Distinguish Patentably Over the References of Record

Claim 1 calls for at least one portion of material which is substantially impermeable to moisture. In Sem-Jacobsen, electrodes 20 and 22 are both cloth hence permeable as is the textile backing sheet 18. Accordingly, claim 1 is not anticipated by Sem-Jacobsen.

Claim 1 is directed to a fabric electrode arrangement. Kater is not a fabric electrode. Rather, Kater is directed to a plastic patch 26 and a metal connector 22. The underside of the plastic patch 26 is filled with an adhesive-electrolyte material 28, i.e., a coupling gel. Because Kater does not describe a cloth electrode, it is submitted that claim 1 is not anticipated by Kater.

Claim 1 calls for the first surface to be for application to the skin of a mammal and claim 2 calls for the moisture impermeable portion to be located directly on the first surface. In Sem-Jacobsen, the electrode assembly is not applied to the patient's skin but rather is positioned below a layer of clothing. Accordingly, claim 2 is not anticipated by Sem-Jacobsen. It is also submitted that the adhesive-electrolyte material 28 of Kater whose purpose it is to improve the electrical connection between the connector and the skin, in use, is caused to cover the skirt 28 of the electrical connector forming the direct contact with skin. That is, because the skirt is displaced from the skin by a layer of an adhesive-electrolyte material, it is submitted that the metal connector 12 does not lie directly on the first surface.

Claim 4 calls for the non-porous material to be flexible. Sem-Jacobsen has no non-porous material portion. In Kater, the skirt 24 is not flexible. Bogusiewicz who uses a similar rigid snap fastener does not cure this shortcoming of Kater.

Claim 5 calls for the moisture impermeable material to be silicone rubber loaded with conductive material. In Bogusiewicz, the non-photosensitive, electrically conductive metal containing layer 240 is formed by paint brushing a male snap-fastener 203 with a silver-silver chloride ink. The layer 240 is coated with an adhesive electrolyte gel 250 which holds the layer 240 away from the skin contacting surface of the electrode. Accordingly, it is submitted that Bogusiewicz fails to cure the shortcomings of Kater.

Claim 10 calls for an electrode arrangement in which the electrode is integral in a garment. By contrast, the sensor pad of Sem-Jacobsen is specifically configured to be located on a body supporting surface such as a stretcher or airplane seat (column 4, line 65 – column 5, line 7). Because Sem-Jacobsen specifically teaches against incorporation of his sensor pad into a garment, it is submitted that claim 10 distinguishes patentably over the references of record.

Claim 13 has been amended to define the garment as including a wearable article of clothing and a fabric electrode arrangement. Further, the fabric electrode arrangement is defined as including at least one portion of the material which is substantially impermeable to moisture. The electrode arrangement of Sem-Jacobsen is constructed solely of fabric materials which breathe and are permeable to moisture for greater patient comfort. Moreover, claim 13 has been amended to distinguish more clearly over Sem-Jacobsen. Accordingly, it is submitted that claim 13 and claims 24 and 25 dependent therefrom distinguish patentably and unobviously over the references of record.

New claim 15 has been drafted to describe the present electrode arrangement with greater specificity and to distinguish clearly over the references of record. Accordingly, it is submitted that claim 15 and claims 16-23 dependent therefrom distinguish patentably and unobviously over the references of record.

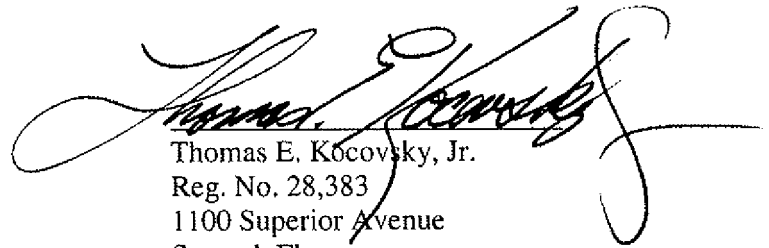
CONCLUSION

For the reasons set forth above, it is submitted that all claims distinguish patentably over the references of record and meet all statutory requirements. An early allowance of claims 1, 2, 4, 5, 10, 13, and 15-26 is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, she is requested to telephone Thomas Kocovsky at (216) 861-5582.

Respectfully submitted,

Fay Sharpe LLP

A large, stylized handwritten signature in black ink, which appears to read "Thomas E. Kocovsky, Jr.", is written over the typed name and address.

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